

**IN THE DRAWING:**

Please replace the photographic illustrations submitted December 8, 2000 and March 23, 2001, with the photographic illustration submitted herewith in duplicate.

**RESPONSE UNDER 37 C.F.R. § 1.105**

The undersigned is advised that the subject variety was sold outside of the United States on or about July 1, 1998. As of the United States filing date, no sales were made nor was product available in the United States. Copies of the requested information in the possession of Applicant or Applicant's attorney are enclosed. Please note that there is an English language translation of the variety description among the corresponding Community Plant Variety Office documentation.

**REMARKS**

The claim of the pending plant patent application stands rejected under 35 U.S.C. § 102(b) for asserted anticipation. This ruling is totally inappropriate and is contrary to the longstanding holding in *In re LeGrice*, 301 F.2d 929 (C.C.P.A. 1962).

**I. Novelty**

The Examiner has cited three published Plant Breeder's Rights applications, and asserted existence of the plant specimen anywhere in the world as a basis for the rejection. It is unclear whether the Examiner is combining the references for the rejection or letting them stand alone. It appears that the Examiner is combining the printed publication(s) and the plant specimen, as may be proper for a 35 U.S.C. § 103 rejection, not a 35 U.S.C. § 102(b) rejection, however, the distinction is immaterial for the reasons discussed herein.

The Examiner has cited the printed publications (1) Breeder's Rights Application No. OO00504, filed in Poland on January 12, 1999 and published on

March 31, 1999; (2) Breeder's Rights Application No. PT 2603 filed in South Africa on September 28, 1998 and published on September 28, 1998; and (3) Breeder's Rights Application No. P-4057 filed in the Czech Republic on August 16, 1999 and published on October 1, 1999. Applicant is confused. Specifically, Applicant's records indicate that the claimed geranium variety 'Pennea' is actually the subject of (1) Breeder's Rights Application No. 98/0251 filed in Europe on February 25, 1998 and granted on January 17, 2000 as Certificate No. EU 5730; (2) Breeder's Rights Application No. 0569 filed in Poland on January 12, 1999 and granted on January 26, 2000 as Certificate No. 0957; (3) Breeder's Rights Certificate No. 2062 granted in Israel on September 6, 2000; and (4) Czech Republic's Application No. 1084 filed August 16, 1994.

The Examiner asserts that if the plant 'Pennea' was publicly available (which it was in Europe), then the application(s), proposed denomination(s), or granted PBR certificate(s), combined with the knowledge in the prior art, would enable one of ordinary skill in the art to reproduce the claimed patent. This assertion appears to be the Examiner's alleged support for the 35 U.S.C. § 102(b) rejection. The assertion is simply not supported by any existing law and represents a policy that is inconsistent with past policy and the established principles of plant patent law.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). See MPEP 2131. See also, *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). In fact, it is a foundation of patent practice that two or more references cannot be combined by an Examiner to assert an anticipation rejection. However, even if one assumes that the Examiner is using each reference singly as a basis for a § 102(b) rejection, Examiner's assertion still fails because

foreign public use or sale of an invention is not prior art under § 102(b), nor is a non-enabling printed disclosure of the invention.

For argument sake, one must acknowledge that the Patent Office only permits the use of multiple references in a 35 U.S.C. § 102 rejection under three distinct circumstances/exceptions:

- A) to prove the primary references contain an “Enabled Disclosure”;
- B) to explain the meaning of a term used in the Primary reference; or
- C) to show that a characteristic not disclosed in a reference is inherent.

See MPEP 2131.01

The Examiner combines Applicant’s PBR application(s) for ‘Pennea’, proposed denomination(s), and granted PBR certificate(s) with the existence of the plant anywhere in the world to assert a 35 U.S.C. § 102(b) rejection. Even if such references are proper prior art, such a combination to assert an anticipation rejection is improper under standard patent procedure because Examiner’s combination of references does not fall within the exceptions listed above.

Withdrawal of the 35 U.S.C. § 102(b) rejection is respectfully requested.

Additionally, Applicant respectfully asserts additional arguments for withdrawal of Examiner’s rejection of Applicant’s plant patent application for ‘Pennea’.

First, to assert an anticipation rejection based on a prior art reference, in the prior art reference, “the identical invention must be shown in as complete detail as is contained in the...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). See MPEP 2131. In order to constitute an anticipation, a reference must be able to teach someone of ordinary skill in the art how to make and/or use an invention. “By the weight of authority, the description must enable such a person not only to comprehend the

invention but also to make it.” 1 Chisum on Patents § 3.04[1]. Meaning, that for a Plant Breeder’s Right Certificate (or the like) to anticipate a plant patent application, the certificate must describe the plant in as much detail as the plant patent application which is expressly incorporated into the claim. That is not the case. A Plant Breeder’s Rights Certificate does not contain the same type or same volume of information that a plant patent contains. In the pending case at hand, the PBR certificates cited by Examiner contain very scant information compared to the wealth of information given in the plant patent application. Because the certificate does not contain every element of the claimed plant ‘Pennea’, nor could it enable someone skilled in the art to asexually reproduce the plant, the PBR certificate cannot serve as a rejection for a U.S. plant patent application.

Additionally, the landmark decision *In re LeGrice* illustrates that the enablement requirement for a prior publication in plant patent cases “must meet the same standards which must be met before a description in a printed publication becomes a bar in non-plant patent cases.” 301 F.2d at 944. The court of *LeGrice* held that the publication of descriptions and pictures of the ‘Rose Floribunda Plant’ in the National Rose Society Annual of England and in catalogues more than one year before filing United States plant patent applications should not be a bar to issuance of the patents. It should be noted that the plants in *In re LeGrice* also were available only in a foreign country, so the situation is identical as that set forth herein. *Id.* at 930. Thus, based on the above information, the minimal detail contained in the PBR certificates cannot be seen to enable the ‘Pennea’ plant patent.

The Examiner’s reliance on *Ex parte Thomson*, 24 USPQ2d 1618 (Bd. of Pat. App. Int. 1992) is grossly misplaced. *Thomson* dealt with the rejection of a utility patent for a plant that is sexually reproduced by seeds and not a plant patent where the claim is specifically directed by statute to what is shown and described. The court was looking at the

rejection from a utility patent standpoint and not a plant patent standpoint. The issue in *Thomson* was whether publications printed more than a year before the utility patent application describing the plant in question, as well as public availability of seeds of the plant, should bar issuance of the utility patent. *Id.* at 1619. In upholding the Examiner's rejection, the court stated "we are convinced that the skilled cotton grower would have had the wherewithal, upon reading the publicly disseminated reference articles to purchase the commercially available Siokra seeds, and employ conventional techniques to plant and nurture the seeds to maturity in order to obtain the claimed invention." *Id.* at 1620.

It strikes the undersigned as ludicrous to suggest that someone with only the knowledge of the plant and the Plant Breeder's Rights Certificate could recreate the patented variety covered by the claim. One skilled in the art could not develop 'Pennea' from the PBR certificates. The plant was not available in the United States so it could not have been asexually reproduced in this country.

The Board, in *Thomson*, reasoned that by Applicant's reliance on seed deposit for its own enabling utility patent application disclosure, the Applicant also was constrained to admit that the availability of the seeds, prior to the Applicant's filing date, amounted to an enabling disclosure of the invention.

By contrast, the present plant application is distinguishable from *Thomson* in that plant patent applications are never substantiated with biological deposits in the first place, and moreover the present plant materials and cut flowers were not available to a skilled artisan in this country by any means. The importation and customs restrictions on cut flower and similar stock require not only quarantine but a lengthy stock cleaning up process before new cultivars are made available, if at all, to United States purchasers. (Only 10% of imported cultivars ever become commercially available). In *Thomson*, the Board highlighted

that the Applicant had "proffered no objective evidence on [the] record that the claimed Siokra seeds were unavailable to the skilled artisan," whereas in the present application the availability of the plant stock was limited by law and as set forth in the foregoing Response Under 37 C.F.R. 1.105. *Id.* at 1620. Therefore, in the present application, cultivars were not available to a skilled artisan in the United States such that he/she could attain them and asexually reproduce the Plant Breeder's Rights registered cultivar prior to the filing of the above-identified patent application.

Thus, taking into account that Applicant is desirous of a plant patent for an asexually reproduced plant, along with the other aforementioned differences between *Thomson* and Applicant's situation, *Thomson* is not relevant.

The principles of *LeGrice* are easily applied to the subject application because factually both deal with roses.

In *LeGrice* the court stated at 301 F.2d 929, at p. 935:

Before passing to an analysis of the case law with respect to the meaning of "described in a printed publication," as this term is used in 35 U.S.C. § 102(b), it must be borne in mind that there are inherent differences between plants and manufactured articles. Should a plant variety become extinct one cannot deliberately produce a duplicate even though its ancestry and the techniques of cross-pollination be known. Manufactured articles, processes, and chemical compositions when disclosed are, however, susceptible to man-made duplication.

The court then goes on to explain why one cannot recreate a rose from a written description. The record before the Patent Office in *LeGrice* identifies that the rose was available. The court stated:

While man can and does assist nature by the cross-pollination of selected parent plants, the actual creation of the new plant, because of the almost infinite number of possible combinations between the genes

and chromosomes, is not presently subject to a controlled reproduction by act of man. While those skilled in this art now understand the mechanics of plant reproduction and the general principles of plant heredity, they are not presently able to control the factors which govern the combinations of genes and chromosomes required to produce a new plant having certain predetermined desired properties.

*Id.* at 938.

If the Patent Office is possessed of information that concludes otherwise, it should so state. Absent such information, one skilled in the art can know of the plant and look at the printed publication and still not produce the new rose plant with the certain predetermined desired properties. One needs access to the plant to asexually and identically reproduce the plant, which does not describe the case at hand.

Historically, the United States patent system granted protection to asexually reproduced plants via plant patents starting in 1930. Other countries, including Germany and the Netherlands, implemented similar systems to provide incentives for plant breeders to create new varieties. The adoption of the 1961 Act of the International Convention for the Protection of New Varieties of Plants by a Diplomatic Conference in Paris on December 2, 1961 provided, for the first time, recognition of the rights of plant breeders on an international basis in UPOV member countries. This adoption was necessary because not all countries have patent-type protection for plants, or if they do, the likelihood, incredible expense, and value of obtaining a patent is a disincentive for plant breeders.

Hence, plant inventors usually seek protection for their new propagation first by Plant Breeder's Rights Certificates for reasons such as those eloquently elaborated in the landmark *LeGrice* decision. Judge Smith appropriately quoted Tennyson's "Flower in the Crannied Wall" to illustrate the difficulties and time that breeders have to endure before they can ascertain any patentable and profitable characteristics of their plant.

“Flower in the crannied wall,  
I pluck you out of the crannies,  
I hold you here, root and all, in my hand,  
Little flower-but if you could understand  
What you are, root and all, and all in all  
I should know what God and Man is.”

*Id.* at 938.

Thus, historically, a PBR Certificate is generally filed before a plant patent application to give a foreign breeder adequate protection while trialing and other testing takes place to see if the United States is a viable market. This symbiotic relationship between United States plant patent rights and international plant rights in UPOV member countries by way of PBR certificates has been maintained unharmed for close to four decades until the Patent Office has insisted on creating new statutory interpretation. Applicant respectfully asserts that the current Plant Patent Group has overlooked the spirit and sensitivity the world has bestowed upon the special nature of plant protection.

## II. Disclosure

The Examiner objected to the disclosure under 35 C.F.R § 1.163(a) and under 35 U.S.C. § 112, first paragraph. Further, the Examiner objected to the disclosure for the specific reasons noted in paragraphs A-W of the detailed Office Action. First, Applicant respectfully submits that, as to paragraph H of the Office Action, Applicant maintains that the leaf margin is “emarginated but also is entire with lobes.” As to the remaining paragraphs, namely A-G and I-W, Applicant respectfully submits that the amendments to the specification overcome the Examiner’s objections to the disclosure. Any additional information requested is unavailable. Withdrawal of the objection to the disclosure is respectfully solicited. Finally, Applicant submits a photographic illustration to replace the originally filed photographic illustration which properly depicts the colors of the claimed plant.




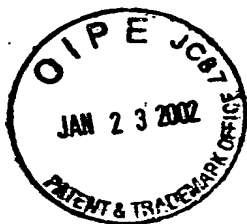
CONCLUSION

In view of the foregoing amendments and remarks, Applicant believes that the claim is patentable over the cited prior art and is in condition for allowance. Reconsideration of the rejection of the claim is respectfully requested.

Respectfully submitted,

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## MARKED-UP COPY OF THE SPECIFICATION

### VARIETY OF GERANIUM PLANT NAMED 'PENNEA'

#### BACKGROUND OF THE INVENTION

The present invention comprises a new and distinct cultivar of *Pelargonium peltatum* known by the varietal name 'Pennea'. The new variety was discovered in 1996 in a selective breeding program in Dresden, Germany. The new variety is a result of a combination breeding and embryo rescue in a group of 6 proprietary seedlings. None of the parent seedlings are patented or the subject of the application. The new variety was first asexually reproduced in 1997 by vegetative propagation by cuttings in Dresden, Germany. The new variety has been trial and field tested and has been found to retain its distinctive characteristics and remain true to type through successive propagations.

#### DESCRIPTION OF THE DRAWING

The accompanying photographic drawing illustrates the new variety, with the color being as nearly true as is possible with color illustrations of this type.

#### DESCRIPTION OF THE PLANT

The following detailed description sets forth the characteristics of the new cultivar at an age of 9 months, grown in a basket having a 23 cm diameter. The new cultivar is different from its parents in having the rosette-type flowers, the leaves are not odema susceptible and the flowers are shinier. The data which defines these characteristics were collected by asexual reproductions by cuttings carried out in Dresden, Germany. The color readings were taken outdoors in shadow during summer. Color references are primarily to the R.H.S. Colour Chart of The Royal Horticultural Society of London.

#### PLANT

##### Classification:

Botanical: *Pelargonium peltatum*.

Commercial: Ivy geranium.

Form: Hanging.

Height from media surface to top of foliage: 25 cm.

Width: 40 cm.

Trailing length: 70-120 cm.

Strength: Does not require artificial support.

Response time: 4 weeks.

Leaves:

Size: 8-10 cm long.

Width: 8-10 cm.

Shape: Ivy-shaped.

Margin: Emarginated, or entire with lobes.

Texture: Hairy.

Color: [Green Group 137A.]

Upper surface is Green Group 137A.

Lower surface is Green Group 137D.

[Rib and veins:]

[Color: Brighter than leaf surface.]

Rib color: Green Group 138B.

Vein color: Green Group 138B.

Petioles:

Color: [Medium green.] Green Group 138A.

Diameter: 0.2 cm.

Length: 3-4 cm.

Stem/branches:

Color: [Medium green.] Green Group 137B.

Internode length: 4-6 cm.

THE BUD

Shape when just showing color:

Overall: Semi-spherical.

Individual bud: Elliptical.

Color: Green Group 139B.

Size when just showing color:

Umbel: 7-9 cm across.

Individual bud: 1.0-1.5 cm long; 1.0 cm wide.

## INFLORESCENCE

Blooming habit: Double.

Size of fully open bloom: 5-6 cm across.

Borne: [Flowers on u]Umbel; umbel on pedicel; pedicel on peduncle.

### Umbel:

Diameter: 4 cm.

Depth: 2 cm.

Inflorescence: 150-200 per plant per season.

### Flowers:

Form: Zygomorph.

Number of petals: 24.

Size: 1-2.5 cm across.

### Petals:

Apex: Round.

Base: Pointed.

Margin: Smooth.

### Color:

Upper surface: Red-Purple Group 66B.

Lower surface: Red-Purple Group 74B.

Texture and appearance: Velvety.

Petaloids: Absent.

### Sepals:

Quantity: 6-9.

Length: 1.0 cm.

Width: 0.3 mm.

Apex: Pointed.

Base: Wide.

Margin: Smooth.

Color: Green Group 137B.

### Pedicel:

Length: 2.0-2.5 cm.

Color: [Medium green.] Green Group 138A.  
Peduncle:  
Length: 9.0-11.0 cm.  
Color: [Medium green.] Green Group 138A.  
Disease/pest resistance: No [unusual] susceptibility to diseases or pests has been noted to date.  
Lasting Quality: Long-lasting; 2 weeks per umbel.

#### REPRODUCTIVE ORGANS

##### Stamens:

Anthers: 3 mm long.  
Filaments:  
Length: 0.5 cm maximum.  
Color: Bright pink.  
Pollen: Yellow.

##### Pistils:

Number: [Five.] One with five parts.  
Length: 0.3-0.4 cm.  
Stigma: Pink in color.  
Style: 0.8 cm long.

##### Ovaries:

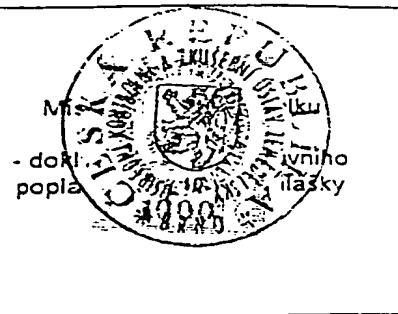
Color: Greenish.  
Length: 0.4 cm.

Fruit: [Very rarely] Not present.

#### GENERAL CHARACTERISTICS

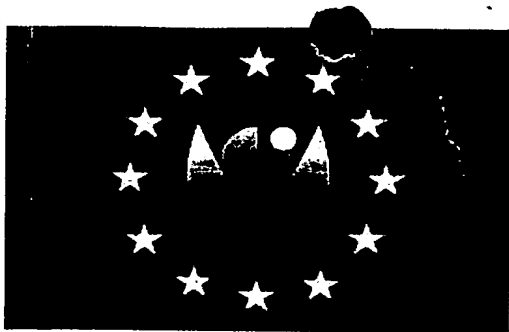
1. Very intense and shiny purple flower color.
2. Early flowering.
3. Vigorous growth habit.
4. Suitable for hanging baskets.
5. Flowering season is spring until frost.

ČESKÁ REPUBLIKA  
MINISTERSTVO ZEMĚDĚLSTVÍ  
ÚSTŘEDNÍ KONTROLNÍ A ZKUŠEBNÍ ÚSTAV ZEMĚDĚLSKÝ  
Odbor odrůdového zkušebnictví, Hroznová 2, 656 06 Brno  
Pracoviště Praha: Za opravnou 4, 150 06 Praha 5 - Motol  
Tel: +420 (02) 572 11 755, 572 94 209, 572 94 210 Fax: +420 (02) 572 11 755



**PŘIHLÁŠKA ODRŮDY K OCHRANĚ PRÁV**  
**APPLICATION OF VARIETY FOR PLANT BREEDERS' RIGHTS**  
podle zákona č.132/1989 Sb. - according to the Act No. 132/1989

<p>1. Přihlašovatel(é): Jméno a adresa <i>Applicant(s): Name and address</i></p> <p>Elsner pac Jungpflanzen Kipsdorfer Str. 146 0-01279 Dresden Deutschland</p>	<p>2. Adresa pro písemný styk: <i>Address to which correspondence is to be sent</i></p> <p>Jarmila Zimová, Ing. Fanderlíkova 34 796 01 Prostějov</p> <p>Telefon: 0634/205 01 Fax: 0634/205 01</p> <p>Zde je uvedena adresa: <i>This is the address:</i>  <input type="checkbox"/> jednoho z přihlašovatelů  <i>of one of the applicants</i>  <input checked="" type="checkbox"/> zplnomocněného zástupce  <i>of the agent / proxy</i>  <input type="checkbox"/> jiná (upřesněte):  <i>other (specify):</i></p>	<p>Pro úřední záznamy. Nevyplňujte!</p>										
<p>Státní příslušnost: <i>Nationality</i></p> <p>Německo</p>		<p>Číslo přihlášky: 1 0 8 4 ✓</p> <p>Datum podání: 16.08.1999 ✓</p> <p>Číslo odrůdy: euiphoen. 10</p> <p>Podpis: <i>[Signature]</i></p>										
<p>3. Druh: <i>Species and crop:</i></p> <p>- latinsky <i>in Latin</i> Pelargonium</p> <p>- česky <i>/ common name in English /</i> Pelargonium</p>												
<p>4. Návrh názvu odrůdy: <i>Proposed denomination of the variety:</i> PENNEA</p> <p>Pracovní označení: <i>Breeder's reference:</i> P - 4054</p>												
<p>5. Původce(i): <i>Original breeder(s):</i></p> <p><input type="checkbox"/> je (jsou) všichni přihlašovatel(é) <i>is (are) the (all) applicant(s)</i></p> <p><input type="checkbox"/> je (jsou) následující osoba(y): <i>is (are) the following person(s):</i></p> <table style="width:100%; border: none;"> <thead> <tr> <th style="text-align: left;">Jméno <i>Name</i></th> <th style="text-align: left;">Adresa <i>Address</i></th> <th style="text-align: left;">Organizace <i>Company</i></th> <th style="text-align: left;">Podíl (%) <i>Share (%)</i></th> <th style="text-align: left;">Podpis <i>Signature</i></th> </tr> </thead> <tbody> <tr> <td>Elsner pac Jungenpflanzen</td> <td>Kipsdorfer Str. 146 0-01279 Dresden</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Jméno <i>Name</i>	Adresa <i>Address</i>	Organizace <i>Company</i>	Podíl (%) <i>Share (%)</i>	Podpis <i>Signature</i>	Elsner pac Jungenpflanzen	Kipsdorfer Str. 146 0-01279 Dresden			
Jméno <i>Name</i>	Adresa <i>Address</i>	Organizace <i>Company</i>	Podíl (%) <i>Share (%)</i>	Podpis <i>Signature</i>								
Elsner pac Jungenpflanzen	Kipsdorfer Str. 146 0-01279 Dresden											
<p>Podle mého (našeho) vědomí se žádná další osoba nepodílela na vyšlechtění odrůdy. <i>To the best of my (our) knowledge there is no other original breeder.</i></p> <p>Jak byla odrůda převedena na přihlašovatele, jestliže není původcem: <i>If the original breeder is not the applicant, how was the variety transferred to the applicant(s):</i></p> <p><input checked="" type="checkbox"/> smlouvou <i>by contract</i></p> <p><input type="checkbox"/> nástupnictvím <i>by succession</i></p> <p><input type="checkbox"/> jiným způsobem (uvedte): <i>other (specify):</i></p>												
<p>Odrůda byla vyšlechtěna v (stát(y)): Deutschland <i>The variety was bred in (State(s)):</i></p>												
<p>Osvědčení přihlašovatele, jde-li o občana České republiky: Prohlašuji, že jsem odrůdu uvedenou v této přihlášce vyšlechtil mimo rámec české organizace a bez její hmotné podpory.</p>												



## BESCHEINIGUNG ÜBER DIE ERTEILUNG DES GEMEINSCHAFTLICHEN SORTENSCHUTZES

DAS GEMEINSCHAFTLICHE SORTENAMT BESTÄTIGT HIERMIT, DAß DURCH SEINE GEMÄß DER VERORDNUNG (EG) Nr. 2100/94 DES RATES ÜBER DEN GEMEINSCHAFTLICHEN SORTENSCHUTZ ERLASSENE ENTSCHEIDUNG Nr. EU5730 VOM 17 JANUAR 2000 DER GEMEINSCHAFTLICHE SORTENSCHUTZ MIT WIRKUNG VOM TAG DER VORGENANNTEN ENTSCHEIDUNG ERTEILT WORDEN IST AN

ELSNER PAC JUNGPFANZEN  
KIPSDORFER STR 146  
D - 01279 DRESDEN

ALS INHABER DIESES SCHUTZRECHTS, VERTRETEN DURCH

DEUTSCHE SAATGUTGESELLSCHAFT MBH

MIT WOHNSITZ BZW. GESCHÄFTSSITZ ODER NIEDERLASSUNG IN

PARRISIUSSTRASSE 33  
D - 12555 BERLIN

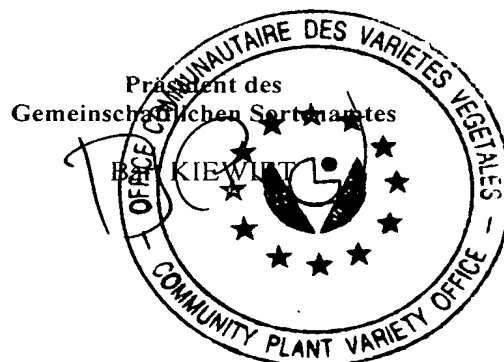
HINSICHTLICH DER SORTE VON *Pelargonium L'Hérit. ex Ait.* MIT DER ZUGEWIESENEN BEZEICHNUNG

PENNEA

FÜR EINE DAUER DIE SPÄTESTENS AM 31/12/2025 ABLÄUFT.

DER GEMEINSCHAFTLICHE SORTENSCHUTZ HAT EINHEITLICHE WIRKUNG INNERHALB DES GEBIETS DER EUROPÄISCHEN GEMEINSCHAFT UND DARF HINSICHTLICH DIESES GEBIETS AUSSCHLIEßLICH AUF DER GENANNTEN EINHEITLICHEN RECHTSGRUNDLAGE ÜBERTRAGEN WERDEN. DER INHABER KANN SEIN SCHUTZRECHT GEMÄß DER VERORDNUNG (EG) Nr. 2100/94 DES RATES ÜBER DEN GEMEINSCHAFTLICHEN SORTENSCHUTZ AUSÜBEN UND NUTZEN.

DIE VORLIEGENDE BESTÄTIGUNG BERÜHRT NICHT DIE VERPFLICHTUNG DES INHABERS, FÜR JEDES JAHR DER DAUER DES GEMEINSCHAFTLICHEN SORTENSCHUTZES DIE FÄLLIGEN GEBÜHREN ZU ENTRICHTEN.





EUROPÄISCHE UNION  
Gemeinschaftliches Sortenamt

Aktenzeichen EU5730

## ENTSCHEIDUNG

Der zuständige Ausschuß für die Erteilung von gemeinschaftlichen Sortenschutzrechten hat am 17 JANUAR 2000 beschlossen, mit Wirkung vom selben Tag gemäß der Verordnung (EG) Nr. 2100/94 des Rates vom 27. Juli 1994 über den gemeinschaftlichen Sortenschutz

dem Antragsteller ELSNER PAC JUNGPFANZEN  
KIPSDORFER STR 146  
D - 01279 DRESDEN

für die Sorte von *Pelargonium L'Hérit. ex Ait.* deren Sortenbeschreibung dieser Entscheidung beigelegt ist, den gemeinschaftlichen Sortenschutz zu erteilen. Die Sortenbeschreibung ist Bestandteil der vorliegenden Entscheidung.

Der Ausschuß hat für diese Sorte mit der beigelegten Beschreibung die folgende Sortenbezeichnung genehmigt:

PENNEA

Angers, den 17 JANUAR 2000

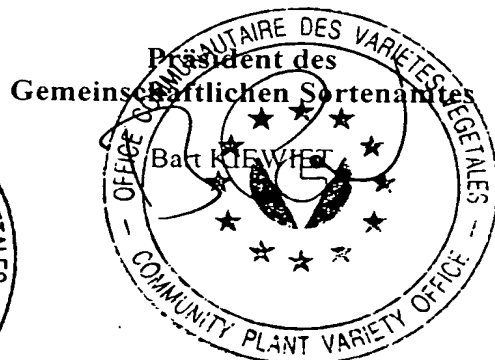
Dirk THEOBALD

Iain FORSYTH

José ELENA

Belehrung für den Empfänger dieser Entscheidung:

Der Antragsteller wird auf die Möglichkeit zur Beschwerde gegen diese Entscheidung hingewiesen. Die Beschwerde ist innerhalb von zwei Monaten nach Zustellung der Entscheidung schriftlich beim Gemeinschaftlichen Sortenamt (siehe Anschrift) einzulegen und unterliegt der Zahlung einer Beschwerdegebühr.

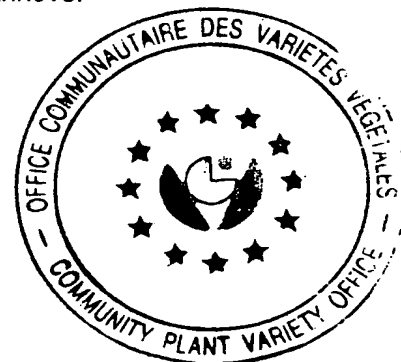




**UPOV-Sortenbeschreibung**  
UPOV-Variety description

INCOMING	
C.P.V.O. / O.C.V.V.	
22 OCT. 1999	
N°	

1. **Referenznummer der berichtenden Behörde:** PEL 1447  
Reference number of reporting authority:
  2. **Referenznummer der beantragenden Behörde:** 98/0251  
Reference number of requesting authority:
  3. **Referenz des Züchters:** P-4057  
Breeder's reference:
  4. **Antragsteller/in (Name und Adresse):** Elsner pac Jungpflanzen GbR  
Applicant (name and address): Kipsdorfer Straße 146  
01279 Dresden
- 
5. **Botanische Bezeichnung des Taxons:** Pelargonium-Peltatum-Hybriden  
Botanical name of taxon:
  6. **Landesübliche Bezeichnung des Taxons:** Efeupelargonie  
Common name of taxon:
  7. **Sortenbezeichnung:** -  
Variety denomination:
  8. **Datum und Dokumentennummer der UPOV-Prüfungsrichtlinie:** 1987-10-07 TG/28/8  
Date and document number of UPOV Test Guidelines:
  9. **Datum und/oder Dokumentennummer der nationalen Prüfungsrichtlinie:**  
Date and/or document number of national Test Guidelines:
  10. **Prüfende Behörde:** Bundessortenamt  
Testing authority:
  11. **Prüfungsstation(en) und -ort(e):** Prüfstelle Hannover  
Testing station(s) and place(s):
  12. **Prüfungsperiode:** 1999  
Period of testing:
  13. **Ausstellungsdatum und -ort des Dokuments:** 20.10.1999 - Hannover  
Date and place of issue of document:



14. Gruppe: (wenn Merkmale der Nummer 15 für die Gruppierung verwendet werden, sind sie in der Nummer mit einem G gekennzeichnet)  
Group: (if characteristics of number 15 are used for grouping they are marked with a G in that number)

15. In den UPOV-Prüfungsrichtlinien oder den nationalen Prüfungsrichtlinien aufgeführte Merkmale:  
Characteristics included in the UPOV Test Guidelines or national Test Guidelines:

UPOV Nr. No.	Merkmale Characteristics	Ausprägungsstufen State of Expression	Note	Bemerkungen Remarks
	1 Pflanze: Höhe der Laubzone (P. zonale) Trieb: Länge (P. peltatum) Plant: height of foliage (P. zonale) Stem: length (P. peltatum)	mittel medium	5	
	2 Pflanze: Breite (ohne Blütenstände) Plant: width (excluding inflorescences)	-	-	nicht anwendbar not applicable
	3 Pflanze: Anzahl Blütenstände Plant: number of inflorescences	-	-	nicht anwendbar not applicable
	4 Pflanze: Farbe des Triebes Plant: color of stem	grün green	2	
	5 Trieb: Dicke Stem: thickness	-	-	nicht anwendbar not applicable
	6 Blattspreite: Länge Leaf blade: length	mittel bis lang medium to long	6	
	7 Blattspreite: Breite Leaf blade: width	breit bis sehr breit broad to very broad	8	
	8 Blattspreite: Form Leaf blade: shape	-	-	nicht anwendbar not applicable
	9 Blattspreite: Ausprägung der Lappung Leaf blade: degree of lobing	-	-	nicht anwendbar not applicable
	10 Blattspreite: Basis Leaf blade: base	geschlossen closed	5	
G	11 Blattspreite: Grundfarbe der Oberseite Leaf blade: main color of upper side	mittelgrün medium green	5	
	12 Blattspreite: Panaschierung Leaf blade: variegation	fehlend absent	1	
	13 Blattspreite: Zone auf der Oberseite Leaf blade: zone on upper side	vorhanden present	9	
G	14 Blattspreite: Ausprägung der Zone auf der Oberseite Leaf blade: conspicuousness of zone on upper side	sehr gering bis gering very weak to weak	2	
	15 Blattspreite: Farbe der Zone auf der Oberseite Leaf blade: color of zone on upper side	rötlichbraun reddish brown	2	
	16 Blattspreite: Art der Randeinschnitte Leaf blade: type of incisions of margin	-	-	nicht anwendbar not applicable
	17 Blattspreite: Tiefe der Randeinschnitte Leaf blade: depth of incisions of margin	-	-	nicht anwendbar not applicable
	18 Blattspreite: Randwellung Leaf blade: undulation of margin	gering bis mittel weak to medium	4	
	19 Blütenstand: Länge des Stiels Inflorescence: length of peduncle	-	-	nicht anwendbar not applicable
	20 Blütenstand: Durchmesser Inflorescence: diameter	-	-	nicht anwendbar not applicable
	21 Blütenstand: Anzahl offener Blüten Inflorescence: number of open flowers	gering bis mittel small to medium	4	
	22 Blütenstand: Durchmesser der größten Blüte Inflorescence: diameter of largest flower	mittel bis groß medium to large	6	
	23 Blütenstand: Länge des längsten Blütenstiels Inflorescence: length of longest pedicel	-	-	nicht anwendbar not applicable
	24 Blütenstiel: Farbe im mittleren Drittel Pedicel: color in middle third	grün green	1	
	25 Blütenstiel: Verdickungen Pedicel: swelling	fehlend absent	1	



UPOV Nr. No.	Merkmale Characteristics	Ausprägungsstufen State of Expression	Note	Bemerkungen Remarks
G	26 <b>Blütenknospe: Form</b> Flower bud: shape	<b>schmal elliptisch</b> narrow elliptic	1	
	27 <b>Blüte: Typ</b> Flower: type	<b>gefüllt</b> double	2	
	28 <b>Blüte: Anzahl Blütenblätter</b> Flower: number of petals	<b>groß</b> many	7	
	29 <b>Blüte: Überlappung der Blütenblätter</b> Flower: overlapping of petals	-	-	nicht anwendbar not applicable
	30 <b>Blütenblatt: Rand</b> Petal: margin	<b>ganzrandig</b> entire	1	
	31 <b>Oberes Blütenblatt: Breite</b> Upper petal: width	<b>mittel</b> medium	5	
	32 <b>Oberes Blütenblatt: Farbe des Randes der Oberseite</b> Upper petal: color of margin of upper side	<b>purpurrot</b> purple-red		HCC 7273 (RHS 066B)
	33 <b>Oberes Blütenblatt: Farbe der Mitte der Oberseite</b> Upper petal: color of middle of upper side	<b>purpurrot</b> purple-red		HCC 7273 (RHS 066B)
	34 <b>Oberes Blütenblatt: Farbe der Unterseite</b> Upper petal: color of lower side	<b>purpurrot</b> purple-red		HCC 0261 (RHS 066B)
	35 <b>Oberes Blütenblatt: Zeichnung</b> Upper petal: markings	<b>vorhanden</b> present	9	
G	36 <b>Oberes Blütenblatt: Art der Zeichnung</b> Upper petal: type of marking	<b>gestreift</b> stripes	1	
	37 <b>Oberes Blütenblatt: Ausprägung der Zeichnung</b> Upper petal: conspicuousness of markings	<b>mittel</b> medium	5	
	38 <b>Oberes Blütenblatt: Weiße Zone an der Basis</b> Upper petal: white zone at the base	<b>fehlend</b> absent	1	
	39 <b>Oberes Blütenblatt: Größe der weißen Zone an der Basis</b> Upper petal: size of white zone at base	-	-	nicht anwendbar not applicable
	40 <b>Unteres Blütenblatt: Farbe des Randes der Oberseite</b> Lower petal: color of margin of upper side	<b>purpur</b> purple		HCC 7291 (RHS 074B)
	41 <b>Unteres Blütenblatt: Farbe der Mitte der Oberseite</b> Lower petal: color of middle of upper side	<b>purpur</b> purple		HCC 7291 (RHS 074B)
	42 <b>Unteres Blütenblatt: Farbe der Unterseite</b> Lower petal: color of lower side	<b>blaurosa</b> blue-pink		HCC 0271 (RHS 067B)
	43 <b>Unteres Blütenblatt: Zeichnung</b> Lower petal: markings	<b>fehlend</b> absent	1	
	44 <b>Unteres Blütenblatt: Art der Zeichnung</b> Lower petal: type of markings	-	-	nicht anwendbar not applicable
	45 <b>Unteres Blütenblatt: Ausprägung der Zeichnung</b> Lower petal: conspicuousness of markings	-	-	nicht anwendbar not applicable
	46 <b>Inneres Blütenblatt: Farbe der Mitte der Oberseite</b> Inner petal: color of middle of upper side	<b>purpur</b> purple		HCC 7292 (RHS 074B)
	47 <b>Inneres Blütenblatt: Zeichnung</b> Inner petal: markings	<b>fehlend</b> absent	1	
	48 <b>Zeitpunkt des Blühbeginns</b> Time of beginning of flowering	<b>früh</b> early	3	



16. Ähnliche Sorten und Unterschiede zu diesen Sorten:

Similar varieties and differences in relation to those varieties:

Bezeichnung der ähnlichen Sorte Denomination of similar variety	Merkmal, in dem die ähnliche Sorte unterschiedlich ist Characteristics, in which the similar variety is different	Ausprägungsstufe der ähnlichen Sorte (Note) State of expression of similar variety	Ausprägungsstufe der Kandidatensorte (Note) State of expression of the candidate variety
Guibambi (PEL 715)	24 Blütenstiel: Farbe im mittleren Drittel Pedicel: color in middle third	hellrot (2) light red	grün (1) green
zusätzliches Merkmal: additional character- istic	Innere Petalen: Verwachsung Inner petal: adnation	vorhanden (9) present	fehlend (1) absent

17. Zusätzliche Informationen:

Additional information:

a) Zusätzliche Daten:  
Additional data:

b) Bemerkungen:  
Remarks:

Die Merkmale 2, 3, 5, 8, 9, 16, 17, 19, 20 und 23 gelten nur für Sorten von *Pelargonium zonale*, die Merkmale 28, 46 und 47 nur für Sorten mit gefüllten Blüten und das Merkmal 29 nur für Sorten mit einfachen Blüten.

The characteristics 2, 3, 5, 8, 9, 16, 17, 19, 20 and 23 are valid for varieties of *Pelargonium zonale* only, the characteristics 28, 46 and 47 are valid for varieties with double flowers only and the characteristic 29 is valid for varieties with single flowers only.

HCC: Horticultural Colour Chart, 1938 + 1941

RHS: Royal Horticultural Society Colour Chart, 1986

Im Auftrag  
By order

  
Dr. Menne

